

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

The Peoples Gas Light	)	
and Coke Company	)	
	)	
Informational statement pursuant to	)	Docket No. 04-0711
Section 6-102(d) of the Illinois Public	)	
Utilities Act in connection with the	)	
proposed issuance and sale of up	)	
to \$50 million aggregate principal	)	
amount of bonds or notes, or a	)	
combination thereof, in one or	)	
more series.	)	

**DRAFT ORDER**

By the Commission:

**Introduction**

On November 22, 2004, The Peoples Gas Light and Coke Company ("Peoples Gas" or the "Company") filed a verified "Informational Statement" with the Illinois Commerce Commission ("Commission") pursuant to Section 6-102(d) of the Public Utilities Act ("Act"), 220 ILCS 5/1-101 *et seq.* In the Informational Statement, Peoples Gas seeks an order from the Commission for the proposed issuance and sale of up to \$50,000,000 aggregate principal amount of bonds or notes, or a combination thereof, in one or more series. The authority is sought for the purpose of the refunding of \$50,000,000 aggregate principal amount of the Series FF Bonds, which are described below.

On November 29, 2004, the Staff of the Illinois Commerce Commission ("Staff") filed a verified response to the Informational Statement. Staff recommends that the Commission issue an Order, pursuant to Section 6-102(d) of the Act, authorizing the transactions described in the Company's Informational Statement and identifying the applicable provisions of the Act and Illinois Administrative Code.

**Statutory Authority for Proposed Financing**

As explained more fully below, Peoples Gas states that its filing is governed by Section 6-102(d) of the Act and that Section 6-102(b) is not applicable to the proposed financing.

Section 6-102 (b) of the Act provides, in relevant part, as follows:

(b) The provisions of this subsection (b) shall apply only to (1) any issuances of stock in a cumulative amount, exclusive of any issuances referred to in item (3), that are 10% or more in a calendar year or 20% or more in a 24-month period of the total common stockholders' equity or of the total amount of preferred stock outstanding, as the case may be, of the public utility, and (2) to any issuances of bonds, notes or other evidences of indebtedness in a cumulative principal amount, exclusive of any issuances referred to in item (3), that are 10% or more in a calendar year or 20% or more in a 24-month period of the aggregate principal amount of bonds, notes and other evidences of indebtedness of the public utility outstanding, all as of the date of the issuance, but shall not apply to (3) any issuances of stock or of bonds, notes or other evidences of indebtedness 90% or more of the proceeds of which are to be used by the public utility for purposes of refunding, redeeming or refinancing outstanding issues of stock, bonds, notes or other evidences of indebtedness ... .

Section 6-102(d) of the Act provides, in relevant part, as follows:

(d) Any issuance of stock or of bonds, notes or other evidences of indebtedness, other than issuances of notes pursuant to subsection (c) of this Section, which is not subject to subsection (b) of this Section, shall be regulated by the Commission as follows: the public utility shall file with the Commission, at least 15 days before the date of the issuance, an informational statement setting forth the type and amount of the issue and the purpose or purposes to which the issue or the proceeds thereof are to be applied. Prior to the date of the issuance specified in the public utility's filing, the Commission, if it finds that the issuance is not subject to subsection (b) of this Section, shall issue a written order in conformance with subsection (a) of this Section authorizing the issuance ... .

### **Nature and Purpose of Proposed Financing**

In the transactions that are the subject of the instant proceeding, Peoples Gas states that its bonds include Series FF. Series FF is due June 1, 2025, with \$50 million in bonds now outstanding ("Series FF Bonds"). Peoples Gas now proposes to issue and sell, on or after June 1, 2005, up to \$50,000,000 aggregate principal amount of new debt, in one or more series and in one or

more transactions. The proceeds will be used to refund or refinance the Series FF Bonds thereby completely retiring this Series. The Series FF Bonds were authorized by the Commission's order in Docket 95-0230, dated June 21, 1995. The Series FF Bonds were issued to the City of Chicago, Illinois ("City") in connection with the City's issuance of its Gas Supply Refunding Revenue Bonds 1995 Series A (the "City Bonds"). The proceeds of the sale of the City Bonds were loaned to Peoples Gas for the purpose of refunding a portion of a series of Peoples Gas' previously issued First Mortgage Bonds.

Peoples Gas intends that the New First Mortgage Bonds would be issued to the Illinois Finance Authority, a municipal body of the state ("IFA"). IFA will contemporaneously issue its Gas Supply Refunding Revenue Bonds Series 2005A and loan the proceeds thereof to Peoples Gas. Peoples Gas will then use the proceeds to redeem the Series FF Bonds, thereby resulting in the City's redemption of the City Bonds.

The New First Mortgage Bonds would be issued pursuant to one or more new supplemental indentures to the First Mortgage Indenture to be entered into by the Peoples Gas and the Trustee. The New First Mortgage Bonds will be substantially in the form provided in the relevant supplemental indenture. The New First Mortgage Bonds will be subject to the terms and conditions stated in the relevant supplemental indenture. The New First Mortgage Bonds will provide that Peoples Gas may elect from time to time to change the interest rate periods applicable to the New First Mortgage Bonds. The New First Mortgage Bonds will have a multi-mode interest rate structure, initially bearing interest at a Term Rate for 11 years (due May 31, 2016), triggered by a mandatory put. The initial mode will not be subject to an optional call. Peoples Gas expects the interest rate to initially be approximately 4%. The coupon rate of the Series FF Bonds, which are being refunded, is 6.1%.

With regard to whether Section 6-102(b) of the Act is applicable, Peoples Gas says that, because the proposed transaction discussed herein constitutes refunding or refinancing of old debt, it is not subject to Section 6-102(b) of the Act. With regard to the fee to be paid pursuant to Section 6-108 of the Act, Peoples Gas says that, under Section 6-108 (2) of the Act, it is not required to pay a fee for the issuance of the New First Mortgage Bonds because they are being issued for the purpose of refunding the Series FF Bonds, for which a fee has already been paid to the Commission pursuant to Section 6-108 of the Act.

### **Staff's Response**

Staff reviewed Peoples Gas' Informational Statement and Article VI of the Act. In its Answer, Staff states that the Company's proposal is subject to Section 6-101 of the Act, which requires the Commission to provide proper identification numbers on the proposed New Mortgage Bonds when issued, and Staff notes that Peoples Gas requested one identification number. Staff states that the

proposal is subject to Section 6-102(a), which requires a Commission Order authorizing the proposed issuance and sale of the New Mortgage Bonds and that the Order state the amount of the proceeds and the purposes to which they are to be applied. Staff further states that the Company's proposal is not subject to Section 6-102(b) since 100% of the proceeds will be used for the purpose of refunding outstanding issues of stock, bonds, notes or other evidences of indebtedness, and is also not subject to Section 6-102(c). In its Answer, Staff also states that the Company's proposal is subject to Section 6-102(d), which requires the Informational Statement filed by the Company and a Commission Order in conformance with Section 6-102(a). Staff also asserts, and the Commission agrees, that since the proceeds will be used for the purpose of refunding outstanding indebtedness that was issued with the consent of the Commission, no fee is required for the proposed issuance. Staff further states that the Company's proposal is subject to 83 Ill. Admin. Code Part 240, which requires the Company to file reports relative to the issuance and sale of the New Mortgage Bonds and application of the proceeds, unless the Commission Order provides otherwise pursuant to Section 240.30. In conclusion, Staff recommends that the Commission issue an Order, pursuant to Section 6-102(d) of the Act, authorizing the transactions described in the Company's Informational Statement, and that the Commission order the Company to file reports relating to the proposed issuance.

### **Findings and Ordering Paragraphs**

The Commission, having considered the entire record herein, is of the opinion and finds that:

(1) Peoples Gas is a corporation engaged in the sale and distribution of natural gas in portions of the State of Illinois and, as such, is a public utility within the meaning of the Act;

(2) the Commission has jurisdiction over Peoples Gas and the subject matter of this proceeding;

(3) the recitals of fact set forth in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;

(4) subject to the conditions set forth herein, Peoples Gas' proposed issuance of up to \$50,000,000 principal amount of New First Mortgage Bonds, with the proceeds to be used only in the manner described in Finding (5) below;

(5) all proceeds will be used to refund existing long-term indebtedness and to pay expenses and redemption premiums relating thereto and for the payment of expenses and redemption premiums relating to the refunding of existing long-term indebtedness, not to exceed \$50,000,000;

(6) the funds to be obtained from the issuance of the New First Mortgage Bonds are reasonably required for the purposes described herein;

(7) the proposed transactions are not subject to the provisions of Section 6-102(b) of the Act;

(8) in accordance with Section 6-101 of the Act, Peoples Gas shall, before

issuance of the New First Mortgage Bonds described herein, cause the following identification number to be placed on the face of such securities: Ill. C.C. No. \_\_\_\_; and

(9) Peoples Gas shall comply with the reporting requirements of 83 Ill. Admin. Code Part 240.

IT IS THEREFORE ORDERED by the Commission that Peoples Gas' proposed issuance of up to \$50,000,000 principal amount of New First Mortgage Bonds is hereby approved in accordance with Section 6-102(d) of the Act.

IT IS FURTHER ORDERED that Peoples Gas shall comply with Findings (4) through (9) of this Order.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Act and 83 Ill. Admin. Code Sec. 200.880, this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this \_\_\_\_ day of \_\_\_\_\_, 2004.

(SIGNED) EDWARD C. HURLEY  
Chairman